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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/074,093	05/07/1998	CONWAY ROBERT SHAW	200-007950-U	1671

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EXAMINER

NGUYEN, TU X

ART UNIT	PAPER NUMBER
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2618

MAIL DATE	DELIVERY MODE
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07/23/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/074,093	Applicant(s) SHAW ET AL.	
	Examiner TU X. NGUYEN	Art Unit 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/07/98 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-13 and 15-26 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13 and 15-26, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kulberg et al. (US Patent 5850612) in view of Imura et al. (US Patent 5909653).

Regarding claim 1, Kulberg et al. disclose an apparatus comprising:

a portable radio telephone (fig.10);
an antenna with a pivot point positioned within the radio telephone (col.11 lines 40-42, "inner wall 146),

wherein the antenna is arranged to pivot about the pivot point only in a single plane and through an acute angle can be pivoted about an axis between a first position in which it projects from a surface of the telephone, and a second position in which it projects from a surface of the telephone (abstract), the antenna being biased and configured to be locked as the antenna pivots, wherein the single plane is substantially perpendicular to a front surface of the radio telephone (col.12 lines 37-49).

Kulberg et al. fail to disclose first and second stop pins positioned within the radio telephone.

Imura et al. disclose first and second stop pins positioned within the radio telephone (fig.3 element 24).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to

modify the system of Kulberg with the above teaching of Imura et al. in order to provide movable gears 24 locked in with the support teat 11D to form the antenna rotated and a prescribed angle.

Regarding claims 2 and 23, the modified Kulberg et al. disclose a switch actuated by pivoting the antenna is position for controlling operation of the radio telephone (Kulberg et al., col.4 lines 17-20).

Regarding claims 3 and 19, the modified Kulberg et al. disclose the antenna is biased towards the first position (Kulberg et al., fig.12-13).

Regarding claim 4, the modified Kulberg et al. disclose the antenna is releasably locked in the first position (Kulberg et al., fig. 14 element 250).

Regarding claim 5, the modified Kulberg et al. disclose a switch for controlling operation of the radio telephone and an actuator on the antenna position for actuating the switch (Kulberg et al., col.4 lines 17-20).

Regarding claim 6, the modified Kulberg et al. disclose the antenna is biased towards the second position (Kulberg et al., fig. 12-13).

Regarding claims 7 and 20-21, the modified Kulberg et al. disclose the antenna is releasably locked in the second position (Kulberg et al., col.4 lines 17-20).

Regarding claim 8, the modified Kulberg et al. disclose in the first position the antenna projects substantially parallel with a major axis of the main body portion (Kulberg et al., fig.12-13).

Regarding claim 9, the modified Kulberg et al. disclose the first position the antenna projects substantially perpendicular to the top surface of the main body portion (abstract).

Regarding claim 10, the modified Kulberg et al. disclose the profile of the radio telephone is minimised when the antenna is in the first position (Kulberg et al., fig.14).

Regarding claims 11 and 24-26, the modified Kulberg et al. disclose the second position the antenna is canted relative to a major axis of the main body portion (Kulberg et al., fig.14).

Regarding claim 12, the modified Kulberg et al. disclose the single plane of rotation intersects the top surface of the main body portion (Kulberg et al., fig.20A).

Regarding claim 13, the modified Kulberg et al. disclose the single plane of rotation is substantially perpendicular to a front surface of the radio telephone (Kulberg et al., fig.19).

Regarding claim 14, the modified Kulberg et al. disclose the antenna is a non-retracting helical antenna (Kulberg et al., col.11 lines 10-11).

Regarding claim 15, the modified Kulberg et al. disclose the main body portion includes an earpiece positioned near the antenna (Kulberg et al., fig. 10, 20A, element 128).

Regarding claim 16, the modified Kulberg et al. disclose the main body portion includes a microphone positioned distant from the antenna (Kulberg et al., fig.10, 20A, element 126).

Regarding claim 17, the modified Kulberg et al. disclose the antenna extends beyond the main body portion (Kulberg et al., fig. 12-13).

Regarding claim 18, the modified Kulberg et al. disclose everything as claim 1 above; more specifically, Kulberg et al disclose a single handed operation (Kulberg et al., col.14 lines 60-62) and a single plane and through an acute angle arranged to be pivoted about an axis between a first position in which it projects from a surface of the telephone and a second position in which it projects from a surface of the telephone (Kulberg et al., fig. 20A, 20B, 20C).

Regarding claim 22, the modified Kulberg et al. disclose stop members internally of the telephone for limiting the movement of the antenna through the acute angle (Kulberg et al., col.15 lines 1-12).

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu Nguyen whose telephone number is 571-272-7883.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Tu X Nguyen/

Primary Examiner, Art Unit 2618

7/16/09